UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/896,321	06/29/2001	Preston J. Hunt	42390P11147	8383

7590 06/07/2005		EXAMINER
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP		POLTORAK, PIOTR

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ART UNIT	PAPER NUMBER
2134	

DATE MAILED: 06/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Office Action Summary	09/896,321	HUNT ET AL.
	Examiner	Art Unit	
	Peter Poltorak	2134	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *3/21/2005*.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-4,6-14,20-23 and 25-28* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-4,6-14,20-23 and 25-28* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

1. The Amendment, and remarks therein, received on 3/21/2005 have been entered and carefully considered.

2. The Amendment cancels claims 5, 15-19 and 24.

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior office action.

Response to Amendment

4. Applicant's arguments have been carefully considered but they were not found persuasive.

5. Applicant suggests that *Margolus et al.* do not teach the limitation introduced by the amendment into the independent claims 1, 10 and 20: "copying to the repository those contents of the client that did not match the contents of the repository".

6. The examiner points to the fact that *Margolus et al.* teach message digest and that the purpose of implementation of message digest in content backups is to avoid copying duplicate files *(for details and citation see § 9-11 below)*. As a result the examiner believes that the content copied to the repository do not match the content of the repository. Furthermore, even if this feature was not implemented by *Margolus et al.* It would have been obvious to one of ordinary skill in the art at the time of applicant's invention *(see § 9-11 below for details)*.

7. Claims 1-4, 6-14, 20-23, 25-28 have been examined.

Claim Rejections - 35 USC § 102 or 103

9. As per claims 1 and 6 *Margolus et al.* teach a cryptographic hash function calculated from the data-item generating DATANAME 3a *(digital fingerprint, Fig. 1 and [59])*, which reads on generating a message digests on a client wherein said message digests uniquely identify contents of files stored on the client; depositing data into the repository, wherein DATANAME 3a is first used to checked against repository hash table *(Fig. 1 and [60])*, which reads on synchronizing contents of said client with a repository connected with the network based on contents of the message digests on the client and corresponding entries in a database of message digests stored on the repository. Furthermore, *Margolus et al.* teach that the repository independently recomputes the DATANAME 3a in order to verify correct transmission *[60]*, which reads on verifying that the contents of the repository match the contents of the client.

10. Furthermore, *Margolus et al.* teach a back up of the local file system *[54]*. In addition to implement a message digests *[59] Margolus et al.'s* discloses that using message digests uploading content that is already present even if associated with a different file name *[7]* and that when two message digests don't match, then the files are different *[6]*.

As a result the examiner believe that the content that does not match the content of the repository is copied to the repository in *Margolus et al.'s*.

11. Furthermore, even if *Margolus et al.* did not implement this feature it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to

copy to repository those contents of the clients that did not match the content of the

repository. One of ordinary skill in the art would have been motivated to perform

such a modification in order to conserve storage space by not storing duplicate data

[7].

12. As per claims 2 and 3 *Margolus et al.* teach a back up of the local file system *[54]*

and disclose that to deposit a data-item into the repository the DATANAME 3a is first

used to check whether or not the repository already contains a copy of the data-item.

13. As per claim 4 the local file system client can choose data to deposit into the

repository *[59]*.

14. As per claim 7 *Margolus et al.* teach SHA-1 *[59]*.

15. As per claim 8 *Margolus et al.* Fig. 1 and [60] read on updating the message digest

on the repository by copying the message digest from the client to the database on

the repository.

16. Claims 20-23 and 25-27 are substantially equivalent to claims 1-4 and 6-8; therefore

claims 20-23 and 25-27 are similarly rejected.

17. Claims 10-13 are substantially equivalent to claims 1, 3 and 6-8; therefore claims 10-

13 are similarly rejected.

18. Claims 9, 14 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Margolus et al. (U.S. Pub. No. 20040143743) in view of *Cox et al. (U.S. Patent No.*

6438724).

19. *Margolus et al.* teach verifying that the contents of the repository match the contents

of the client as discussed above. Furthermore *Margolus et al.* explicitly teach that the

process of verification is applied to a data-item in order to avoid any danger of associating the wrong dataname with a given repository data-item [60]. *Margolus et al.* do not explicitly teach repeating client and repository synchronization if the error is found (if first and second cryptographic hashes do not match). *Cox et al.* teach re-sending data if an error is detected *(Cox et al., col. 1 lines 23-25)*. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to repeat client and repository synchronization if first and second cryptographic hashes do not match as taught by *Cox et al.* One of ordinary skill in the art would have been motivated to perform such a modification in order to ensure data *integrity (Cox et al., col. 1 lines 23-25)*.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of
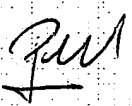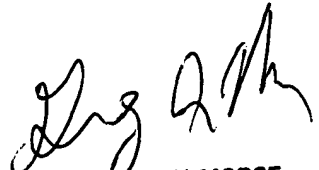
the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Peter Poltorak whose telephone number is (571)272-

3840. The examiner can normally be reached Monday through Thursday from 9:00

a.m. to 4:00 p.m. and alternate Fridays from 9:00 a.m. to 3:30 p.m

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Gregory Morse can be reached on (571)272-3838. The fax phone number

for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

Signature

Date

GREGORY MORSE
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